

REMARKS

In response to Applicants' Appeal Brief the Examiner has withdrawn the final rejection and reopened prosecution of this application. The Examiner has requested a certified copy of the foreign priority document, a copy of which including an English translation is attached hereto.

The Examiner also has objected to claims 4, 11 and 12 under 37 C.F.R. 1.75(c) as being in improper form as depending from multiple dependent claims 3 or 10, so the Examiner has not treated claims 4 and 11 on the merits. Applicants respectfully submit that the only restriction to dependency is that "[A] multiple dependent claim shall not serve as a basis for any other multiple dependent claims." Since claims 4, 11 and 12 are not themselves multiple dependent claims, they may properly depend from a multiple dependent claim. Therefore the Examiner's objection is erroneous.

The Examiner rejected claims 1-3, 6-10 and 13 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,732,214 ("Gessel"). The Examiner states that Gessel teaches a method of setting up a communication procedure between instances by selecting the instance that take part in the communication procedure, one instance being a protocol tester and another instance being an item under test (col. 3, lines 15-32); selecting a protocol layer to be emulated by the protocol tester for testing a specified protocol layer of the item under test on the basis of the communication procedure (col. 3, lines 42-58); selecting abstract communication interfaces of the emulated protocol layer for the communication procedure (col. 10, lines 20-32); selecting communication data contained in description files to be exchanged at the abstract communication interfaces (col. 3, lines 15-32); and

automatically setting up through the protocol tester the communication procedure on the basis of the selections made in the prior selecting steps, with parameters for the abstract communication interface and the communication data selecting steps being made graphically (col. 6, lines 60-70[?]). Applicants respectfully traverse this improper and nonobvious conclusion by the Examiner.

In contradistinction to Applicants' claimed invention Gessel discloses a system and method for testing OPI layers 3-7 of a communications protocol used between nodes in a telecommunications network, the system including a protocol simulator for OSI layers 3-7, a LAN connected to the simulator with a first socket interface that replaces layers 1 and 2, and a target telecommunication node connected to the LAN with a second socket interface to perform operations to validate the use of the communications protocol with the target telecommunication node.

Gessel may best be understood with the specific example shown in Fig. 7 where a protocol simulator 73 is selectively coupled via a LAN 79 to either a hardware device 71 or an emulator 72 as determined by a communications manager 74. The proper protocol simulation software and protocol stack for the selected device are selected by a protocol simulator adaptor 75. Messages according to the communication protocol are then sent from the protocol simulator via the LAN by compiling the messages into TCP/IP format for transmission via a UNIX socket 78. The messages exit the LAN via another UNIX socket 81 and are directed to a UNIX adaptor 82 to recover the messages from the TCP/IP format in the communication protocol which is understood by the hardware device. There is no selection of a protocol layer to be emulated in order to test a specific protocol layer as Gessel tests the entire protocol stack layers 3-7, i.e., the communication protocol *in toto*, not a

specific protocol layer as is recited by Applicants in claims 1 and 8.

Also there is no discussion in Gessel of the abstract communication interfaces of the emulated layer, i.e., the service access points between protocol layers – between the emulated protocol layer and the specific protocol layer being tested. Further there is no discussion in Gessel of the communication data that is exchanged at the abstract communication interfaces. Therefore Gessel does not in fact select the abstract communication interfaces or communication data for exchange at the abstract communication interfaces as recited in claims 1 and 8 as Gessel does not test any specific one of the protocol layers. Thus claims 1 and 8 together with claims 2-7 and 9-13 dependent therefrom are deemed to be allowable as being neither anticipated nor rendered obvious to one of ordinary skill in the art by Gessel.

In view of the foregoing remarks allowance of claims 1-13 is urged, and such action and the issuance of this case are requested.

Respectfully submitted,

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